IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

a/k/a DWAYNE DELESTON, #96350-0/1) C/A No. 6:10-444 DCN
Plaintiff,)
vs.	ORDER
US DEPARTMENT OF JUSTICE; JACKSON)
SETH WHIPPER; MILLER WILLIAM)
SHEALY, JR., and US ATTORNEYS OFFICE)
FOR THE DISTRICT OF SOUTH CAROLINA,)
CHARLESTON DIVISION,)
)
Defendants.)

The above referenced case is before this court upon the magistrate judge's recommendation that the case be dismissed without prejudice and without issuance and service of process.

This court is charged with conducting a <u>de novo</u> review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. <u>Thomas v Arn</u>, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. <u>United States v. Schronce</u>, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).¹ Objections to the magistrate judge's report and

¹In <u>Wright v. Collins</u>, 766 F.2d 841 (4th Cir. 1985), the court held "that a <u>pro se</u> litigant must receive fair notification of the <u>consequences</u> of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him

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recommendation were timely filed on March 24, 2011.

A <u>de novo</u> review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's Report and Recommendation is **AFFIRMED**, and the case is **DISMISSED** without prejudice and without issuance and service of process.

IT IS FURTHER ORDERED that plaintiff's motions for summary judgment and to amend complaint are **DENIED**.

AND IT IS SO ORDERED.

David C. Norton

Chief United States District Judge

Charleston, South Carolina July 11, 2011

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure